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CASE VA/H-33198

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

KNAPE ET AL.

APPLICATION NO: 09/776,787

FILED: FEBRUARY 4, 2003

FOR: INACTIVATED BOVINE SCOURS VACCINES, PROCESS AND
METHOD OF PREVENTING BOVINE SCOURS

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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AMENDMENT
AND RESPONSE

Sir:

On October 1, 2003, the Examiner issued an Office Action having a three-month shorten statutory time period for response. The Applicants are filing this Amendment and Response to the Office Action on or before January 2, 2004. As such, no extension of time is necessary. However, should an Extension of Time become necessary in order to have this Amendment and Response filed during the pendency of this application, the Commissioner is authorized to deduct the appropriate fee from Deposit account 19-0134.

Attached is an Amendment to Claims, followed by a Remarks section. Also enclosed is a copy of a Statement of Availability for *Clostridium perfringens* Type C and a copy of the ATCC deposit receipt. Applicants are also enclosing a printout from ATCC's website concerning the publicly availability of coronavirus strain Mebus. A return postcard is are enclosed herewith.

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the specific routes of administration, adjuvants etc. as claimed, such limitations on reagents and modes of administration are obvious modifications.

For the reasons set forth above, Mostl et al. fails to qualify as a prior art publication under § 102(b) because it fails to list every element and limitation of Applicants' invention. As such, Mostl et al. cannot be used as basis for rejecting Claims 23, 24, 40-43, and 46 under § 103(a). Applicants request that the Examiner withdraw this rejection.

Applicants believe that all pending claims are allowable. Should the Examiner have any questions regarding this Amendment and Response, the Examiner should contact the undersigned at the number indicated.

Respectfully submitted,

Novartis
Corporate Intellectual Property
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Date: December 15, 2003

This application, as originally filed, contained 48 claims. Applicants are canceling claims 1, 3, 4, 7, 15-21, 26, 28, 29, 36-39 (a total of 18 claims) and adding claims 49-82 (a total of 34 claims). All of the new claims are dependent claims. As such, Applicants need to pay for 16 new claims at a price of \$ 18.00 per dependent claim. Please charge Deposit Account No. 19-0134 in the name of Novartis in the amount of \$ 288.00. An additional copy of this paper is enclosed. The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. §1.16 and §1.17 which may be required, or credit any overpayment, to Account No. 19-0134 in the name of Novartis.